

9 FAM 42.32(d)(10) NOTES

(CT:VISA-850; 11-07-2006)
(Office of Origin: CA/VO/L/R)

9 FAM 42.32(d)(10) N1 BACKGROUND

(CT:VISA-850; 11-07-2006)

Section 1059 of Public Law 109-163, of the National Defense Authorization Act for Fiscal Year 2006, authorizes special immigrant status for persons serving as translators with the United States Armed Forces ("special immigrant translator status").

9 FAM 42.32(d)(10) N2 ELIGIBILITY FOR SPECIAL IMMIGRANT TRANSLATOR STATUS UNDER INA 101(A)(27)

(CT:VISA-850; 11-07-2006)

Applicants filing special immigrant translator status must meet the following criteria:

- (1) Must be a national of Iraq or Afghanistan;
- (2) Must have worked directly with the United States Armed Forces as a translator for a period of at least 12 months;
- (3) Must have obtained a favorable written recommendation from a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien;
- (4) Must have cleared a background check and screening as determined by a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien;
- (5) Is otherwise eligible to receive an immigrant visa (IV) and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in INA 212(a)(4) (8 U.S.C. 1182(a)(4)) relating to "public charge" shall not apply.

9 FAM 42.32(d)(10) N3 NUMERICAL LIMITATIONS

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The total number of principal aliens who may be provided special immigrant translator status during any fiscal year shall not exceed 50. The Nebraska Service Center (NSC) will track this numerical cap.

9 FAM 42.32(d)(10) N4 SPOUSES AND CHILDREN

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The derivative spouse and minor, unmarried children of the principal applicant may be included in the case and do not count against the cap of 50 interpreters. They may accompany the principal applicant or follow-to-join the principal.

9 FAM 42.32(d)(10) N5 PETITIONS

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Aliens outside the United States file the petition with the U.S. Citizenship and Immigration Services (USCIS) overseas office that has jurisdiction over the country where the alien resides, or the petition may be sent directly to the NSC for adjudication. Posts have no authority to adjudicate these translator petitions. The U.S. Armed Forces unit, not the Department of State, is the advocate on behalf of the translator (petitioner) and his/her immediate family and will assist them with the required documentation. Approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant will be sent through the National Visa Center (NVC) to designated posts for adjudication.

9 FAM 42.32(d)(10) N6 APPROVAL OF PETITION UNDER INA 204

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The approval of a petition under INA 204 is considered to establish prima facie entitlement to status, and the qualifications of the alien beneficiary are presumed to exist. Unless the consular officer has specific, substantial evidence of either misrepresentation in the petition process or had facts unknown to the Department of Homeland Security (DHS) at the time of approval, the consular officer generally would have no reason to return the petition to DHS. A large number of these beneficiaries may adjust status in the United States. If posts have further questions, they may contact CA/VO/F/P.